

IN THE DISTRICT COURT OF THE UNITED STATES  
FOR THE DISTRICT OF SOUTH CAROLINA  
GREENVILLE DIVISION

Randall Erwin Latimer,

Plaintiff,

vs.

Bill Byers, et al.,

Defendant.

Civil Action No. 6:11-cv-3259-JFA-KFM

**REPORT OF MAGISTRATE JUDGE**

This matter is before the court on the plaintiff's motion for entry of default (doc. 43). The plaintiff, a state prisoner proceeding *pro se*, alleges that the defendants used excessive force against him, violating his constitutional rights.

Pursuant to the provisions of Title 28, United States Code, Section 636(b)(1)(B), and Local Civil Rule 73.02(B)(2)(d) DSC, this magistrate judge is authorized to review all pretrial matters in cases filed under Title 42, United States Code, Section 1983.

The complaint in this case was filed on December 6, 2011. Defendants Byers, Duffy, Enloe, Golden, McCall, Teeham, and Turner were served with the summons and complaint on February 16, 2012, and their answer was therefore due on March 8, 2012. The defendants timely filed their answer on March 7, 2012.

On March 12, 2012, the plaintiff filed a motion asking that the court enter default against these defendants. Entry of default is appropriate when a party fails to timely plead. Fed.R.Civ.P. 55(a). Here, the defendants timely answered the complaint.

Wherefore, based upon the foregoing, the plaintiff's motion for default (doc. 43) should be denied.

s/Kevin F. McDonald  
United States Magistrate Judge

March 26, 2012  
Greenville, South Carolina